

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010080811

ORDER DENYING REQUEST FOR
RECONSIDERATION

On October 13, 2010, the undersigned administrative law judge issued an order granting a continuance of the prehearing and due process hearing dates in this matter and denying the parties' request for a trial setting conference. On October 13, 2010, Evan Goldsen, attorney for Student, filed a motion to reconsider the denial of a trial setting conference. The Office of Administrative Hearings (OAH) did not receive a response from the San Francisco Unified School District.

APPLICABLE LAW

OAH will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

DISCUSSION AND ORDER

Student contends that the parties' October 11, 2010, joint request for a continuance of the prehearing conference and due process hearing dates in this matter was based upon discussions with OAH which indicated the due process hearing in this matter was being vacated and conflicting scheduling notices which placed the prehearing conference in this matter at 1:30 p.m. on October 18, 2010, and the due process hearing at 9:30 a.m. on October

18, 2010.¹ Upon raising the conflicting orders with OAH, the parties were told that they could file a request to continue the due process hearing. Student contends that “[g]iven the uncertainty of convening a prehearing conference without scheduled hearing dates” the parties asked to continue the due process hearing and convert the prehearing conference into a trial setting conference. The October 13, 2010 order continued the prehearing conference and due process hearing, but denied the request for a trial setting conference as OAH will only grant a trial setting conference under specific circumstances.² Student contends that counsel is unavailable for the currently assigned due process hearing date and he now seeks reconsideration.³

The background information as to why the parties made the joint request for continuance does not constitute new facts or law in support of his request for reconsideration. Accordingly, the request for reconsideration is denied.

IT IS SO ORDERED.

Dated: October 28, 2010

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings

¹ While the scheduling orders may have caused confusion as to the time of the prehearing conference, it is not uncommon for OAH to hold a prehearing conference prior to the beginning of a due process hearing on the first day of the due process hearing.

² Scheduling a trial setting conference in lieu of due process hearing dates because the parties refuse to provide mutually agreed upon dates in their joint request for a continuance is not the type of circumstance under which OAH will set a trial setting conference.

³ If the parties wish to change the currently scheduled due process hearing dates to earlier dates, they may submit a joint request or make an appropriate motion.